

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

United States of America

v.

Mordechay Malka and
Matityau Malka,

Defendants.

**Protective Order – Minor-1 Confidential
Records**

S3 19 Cr. 497 (NSR)

-05
-09

Upon the application of the United States of America, and the defendants having requested discovery under Fed. R. Crim. P. 16(a)(1)(E), the Court hereby finds and orders as follows:

1. 3509 Disclosure Material. The Government will disclose to the defense documents relied upon by Kathryn Heeke, LCSW, in her Affidavit in Support of the Motion for Closed Circuit Testimony, dated October 8, 2021, and during her testimony before the Court on October 22, 2021 (the “3509 Disclosure Material”) in connection with the trial of Nachman Helbrans and Mayer Rosner. The 3509 Disclosure Material contains sensitive medical and mental health records of a minor witness (“Minor-1”).

2. Facilitation of Discovery. The entry of a protective order as to the 3509 Disclosure Material in this case will permit the Government to produce expeditiously the 3509 Disclosure Material without further litigation.

3. Good Cause. There is good cause for entry of the protective order set forth herein.

Accordingly it is hereby Ordered:

4. 3509 Disclosure Material shall not be disclosed by the defense, including any successor counsel (“the defense”) other than as set forth herein, and shall be used by the defense solely for purposes of defending this action. The defense shall not post any 3509 Disclosure Material on any

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Internet site or network site,¹ and shall not disclose 3509 Disclosure Material to any third party except as set forth below.

5. 3509 Disclosure Material may only be disclosed by standby counsel to: (a) personnel for whose conduct counsel is responsible, *i.e.*, personnel employed by standby counsel.

6. 3509 Disclosure Material may be disclosed to the Defendants subject to the following limitations: (a) the Defendants may review 3509 Disclosure Material only in the presence of standby counsel or any other person authorized to receive 3509 Disclosure Material; (b) the Defendants may not copy or otherwise record 3509 Disclosure Material; and (c) the Defendants may not keep 3509 Disclosure Material or a copy of such material outside the presence of standby counsel, including in any prison facility.

8. This Order does not prevent the disclosure of any 3509 Disclosure Material in any hearing or trial held in this action, or to any judge or magistrate judge, for purposes of this action. However, 3509 Disclosure Material pertinent to any motion before the Court should initially be filed under seal, absent consent of the Government or order of the Court. All filings should comply with the privacy protection provisions of Federal Rule of Criminal Procedure 49.1.

Return or Destruction of 3509 Disclosure Material

19. Except for 3509 Disclosure Material that has been made part of the record of this case, the defense shall return to the Government, or securely destroy or delete all 3509 Disclosure

¹ This does not prohibit standby counsel from using secure, private web services such as “Drop Box” to store disclosure material or sensitive disclosure material, or to transfer such materials to other authorized recipients.

Material, within 30 days of the expiration of the period for direct appeal from any verdict in the above-captioned case; the period of direct appeal from any order dismissing any of the charges in the above-captioned case; or the granting of any motion made on behalf of the Government dismissing any charges in the above-captioned case, whichever date is latest.

Retention of Jurisdiction

20. The provisions of this order shall not terminate at the conclusion of this criminal prosecution and the Court will retain jurisdiction to enforce this Order following termination of the case.

SO ORDERED:

Dated: White Plains, New York
May 24, 2022

AGREED AND CONSENTED TO:

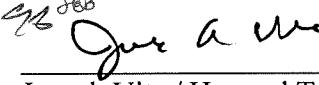
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Attorneys for Matityau Malka

~~Mordechay Malka~~ JEB ~~MS~~
Pro Se Defendant

~~Matityau Malka~~ JEB ~~MS~~
Pro Se Defendant


THE HONORABLE NELSON S. ROMÁN
UNITED STATES DISTRICT JUDGE

Dated: White Plains, NY
May 26, 2022